

110TH CONGRESS  
2D SESSION

# S. 3581

To establish a Federal Mortgage Origination Commission, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25 (legislative day, SEPTEMBER 17), 2008

Mr. BOND introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To establish a Federal Mortgage Origination Commission,  
and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Mortgage Origination Commission Act of 2008”.

6       (b) **TABLE OF CONTENTS.**—The table of contents for  
7       this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Purposes.  
Sec. 3. Definitions.

TITLE I—ESTABLISHMENT OF THE MORTGAGE ORIGINATION  
COMMISSION

- Sec. 101. Establishment of the Mortgage Origination Commission.
- Sec. 102. Director of the Commission.
- Sec. 103. Deputy Director of the Commission.
- Sec. 104. Personnel, services, and facilities.
- Sec. 105. Funding for Commission operations.

## TITLE II—EVALUATION OF STATE MORTGAGE SUPERVISION AND ENFORCEMENT

- Sec. 201. Evaluation criteria.
- Sec. 202. Periodic assessment of State programs.
- Sec. 203. Commission information.

## TITLE III—SUPERVISION OF MORTGAGE COMPANIES AND MORTGAGE ORIGINATORS

- Sec. 301. Clarification of Truth in Lending Act enforcement responsibilities.
- Sec. 302. Board of Governors examination authority.
- Sec. 303. Office of Thrift Supervision examination authority.

### 1   **SEC. 2. PURPOSES.**

2       The purposes of this Act are—

3           (1) to enhance protection and fair treatment of  
4       consumers in the mortgage origination process by  
5       establishing uniform State minimum licensing and  
6       qualification standards for mortgage originators;

7           (2) to establish a method to evaluate the ade-  
8       quacy and effectiveness of State licensing, super-  
9       vision, and enforcement programs for regulating  
10      mortgage originators other than federally regulated  
11      depository institutions and their subsidiaries and  
12      employees;

13          (3) to provide disclosure and transparency to  
14      consumers, investors, and regulators on the ade-  
15      quacy of such State programs; and

16          (4) to clarify oversight responsibilities and en-  
17      forcement authority under Federal laws governing

1 mortgage origination and lending activities con-  
2 ducted outside of federally regulated depository in-  
3 stitutions and their subsidiaries.

4 **SEC. 3. DEFINITIONS.**

5 For purposes of this Act, the following definitions  
6 shall apply:

7 (1) COMMISSION.—The term “Commission”  
8 means the Mortgage Origination Commission estab-  
9 lished under this Act.

10 (2) COMPANY.—The term “company” means  
11 any corporation, limited liability corporation, part-  
12 nership, limited partnership, business trust, business  
13 association, sole proprietorship, or similar organiza-  
14 tion.

15 (3) DEPOSITORY INSTITUTION.—The term “de-  
16 pository institution” has the same meaning as in  
17 section 3 of the Federal Deposit Insurance Act (12  
18 U.S.C. 1813) and includes any credit union.

19 (4) MORTGAGE COMPANY.—

20 (A) IN GENERAL.—The term “mortgage  
21 company” means a company that, through  
22 mortgage loan originators, engages in the busi-  
23 ness of—

24 (i) extending residential mortgage  
25 loans to others; or

1 (ii) underwriting or preparing residen-  
 2 tial mortgage loan applications on behalf of  
 3 or for submission to others.

4 (B) DEPOSITORY INSTITUTIONS AND SUB-  
 5 SIDIARIES EXCLUDED.—The term “mortgage  
 6 company” does not include a depository institu-  
 7 tion or subsidiary of a depository institution.

8 (5) MORTGAGE LOAN ORIGINATOR.—

9 (A) IN GENERAL.—The term “mortgage  
 10 loan originator”—

11 (i) means an individual who—

12 (I) accepts from or prepares for  
 13 a consumer a residential mortgage  
 14 loan application;

15 (II) assists a consumer in obtain-  
 16 ing or applying to obtain a residential  
 17 mortgage loan; or

18 (III) offers or negotiates terms of  
 19 a residential mortgage loan, for direct  
 20 or indirect compensation or gain, or in  
 21 the expectation of direct or indirect  
 22 compensation or gain;

23 (ii) includes any individual who rep-  
 24 resents to the public, through advertising  
 25 or other means of communicating or pro-

viding information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such individual can or will provide or perform any of the activities described in clause (i);

(iii) does not include any individual who is not otherwise described in clause (i) or (ii) and who performs purely administrative or clerical tasks on behalf of a person who is described in any such clause; and

(iv) does not include a person or entity that only performs real estate brokerage activities and is licensed or registered as a real estate broker in accordance with applicable State law, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator.

(B) OTHER DEFINITIONS RELATING TO MORTGAGE LOAN ORIGINATOR.—For purposes of this paragraph, an individual “assists a consumer in obtaining or applying to obtain a resi-

1       dential mortgage loan” by, among other things,  
2       advising on loan terms (including rates, fees,  
3       and other costs), preparing loan documents or  
4       packages, or collecting information on behalf of  
5       the consumer with regard to a residential mort-  
6       gage loan.

7               (C)   ADMINISTRATIVE    OR   CLERICAL  
8       TASKS.—For purposes of this paragraph, the  
9       term “administrative or clerical tasks” means  
10      the receipt, collection, or distribution of infor-  
11      mation common for the processing or under-  
12      writing of a loan in the mortgage industry and  
13      communication with a consumer to obtain infor-  
14      mation necessary for the processing or under-  
15      writing of a residential mortgage loan.

16              (D)   REAL ESTATE BROKERAGE ACTIVITY  
17      DEFINED.—For purposes of this paragraph, the  
18      term “real estate brokerage activity” means any  
19      activity that involves offering or providing real  
20      estate brokerage services to the public, includ-  
21      ing—

22                   (i) acting as a real estate agent or  
23                   real estate broker for a buyer, seller, les-  
24                   sor, or lessee of real property;

1 (ii) listing or advertising real property  
2 for sale, purchase, lease, rental, or ex-  
3 change;

4 (iii) providing advice in connection  
5 with sale, purchase, lease, rental, or ex-  
6 change of real property;

7 (iv) bringing together parties inter-  
8 ested in the sale, purchase, lease, rental, or  
9 exchange of real property;

10 (v) negotiating, on behalf of any  
11 party, any portion of a contract relating to  
12 the sale, purchase, lease, rental, or ex-  
13 change of real property (other than in con-  
14 nection with providing financing with re-  
15 spect to any such transaction);

16 (vi) engaging in any activity for which  
17 a person engaged in the activity is required  
18 to be registered or licensed as a real estate  
19 agent or real estate broker under any ap-  
20 plicable law; and

21 (vii) offering to engage in any activity,  
22 or act in any capacity, described in clause  
23 (i), (ii), (iii), (iv), (v), or (vi).

(6) NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.—The term “Nationwide Mortgage Licensing System and Registry” means—

(A) a mortgage licensing system developed and maintained by the Conference of State Banking Supervisors and the American Association of Residential Mortgage Regulators for the registration of, or State licensing and registration of, mortgage loan originators; or

(B) the alternate mortgage licensing system and registry established by the Secretary of Housing and Urban Development pursuant to section 1508 of the Housing and Economic Recovery Act of 2008 (12 U.S.C. 5107).

(7) RESIDENTIAL MORTGAGE LOAN.—The term “residential mortgage loan” means any transaction in which a mortgage, deed of trust, or other consensual security interest is created or retained against a one-to-four family home, individual unit of a condominium or cooperative, or a mobile home to secure credit extended to an individual or individuals primarily for personal, family, or household purposes.

(8) STATE.—The term “State” means any State of the United States, the District of Columbia, Puerto Rico, and the Virgin Islands.



1 **TITLE I—ESTABLISHMENT OF**  
2 **THE MORTGAGE ORIGINA-**  
3 **TION COMMISSION**

4 **SEC. 101. ESTABLISHMENT OF THE MORTGAGE ORIGINA-**  
5 **TION COMMISSION.**

6 (a) ESTABLISHMENT; COMPOSITION.—There is es-  
7 tablished the Mortgage Origination Commission which  
8 shall consist of the following:

9 (1) The Comptroller of the Currency, or des-  
10 ignee.

11 (2) The Chairman of the Board of Directors of  
12 the Federal Deposit Insurance Corporation, or des-  
13 ignee.

14 (3) A Governor of the Board of Governors of  
15 the Federal Reserve System designated by the  
16 Chairman of the Board.

17 (4) The Director, Office of Thrift Supervision,  
18 or designee.

19 (5) The Chairman of the National Credit Union  
20 Administration Board, or designee.

21 (6) The Chairman of the State Liaison Com-  
22 mittee of the Federal Financial Institutions Exam-  
23 ination Council elected pursuant to section 1007 of  
24 the Federal Financial Institutions Examination  
25 Council Act of 1978 (12 U.S.C. 3306).

1 (7) The Director of the Commission.

2 (b) CHAIRMAN.—The Director of the Commission  
3 shall serve as its Chairman.

4 (c) MEETINGS; QUORUM; VOTING.—

5 (1) IN GENERAL.—The Commission shall meet  
6 at least semiannually and at the call of the Director  
7 of the Commission or a majority of its members  
8 when there is business to be conducted.

9 (2) QUORUM.—A majority of the members of  
10 the Commission shall constitute a quorum.

11 (3) DECISIONS.—Decisions of the Commission  
12 shall be made by the vote of a majority of its mem-  
13 bers.

14 (d) ADMINISTRATION OF THE ACT.—

15 (1) IN GENERAL.—The Commission shall have  
16 the authority to administer and interpret this Act,  
17 and to prescribe regulations to carry out this Act.

18 (2) RULEMAKING.—Rulemaking of the Commis-  
19 sion shall be subject to section 553 of the Adminis-  
20 trative Procedure Act (5 U.S.C. 553).

21 **SEC. 102. DIRECTOR OF THE COMMISSION.**

22 (a) APPOINTMENT.—The Director of the Commission  
23 shall be appointed by the President, by and with the advice  
24 and consent of the Senate, from among individuals who  
25 are citizens of the United States, have recognized and ex-

1   tensive experience in mortgage regulation or mortgage  
2   markets, and have demonstrated expertise in the legal and  
3   regulatory requirements and private sector standards gov-  
4   erning the United States primary and secondary mortgage  
5   markets. The Director shall not hold any other appointed  
6   office during his or her term as Director.

7       (b) **TERM.**—The Director shall be appointed for a  
8   term of 5 years.

9       (c) **VACANCY.**—A vacancy in the position of the Di-  
10   rector shall be filled in the manner in which the original  
11   appointment was made under subsection (a) of this sec-  
12   tion.

13       (d) **SERVICE AFTER END OF TERM.**—The Director  
14   may serve after the expiration of the term for which the  
15   Director was appointed until a successor Director has  
16   been appointed.

17       (e) **AUTHORITY.**—The Director is authorized to carry  
18   out, and to delegate to officers, employees, and agents the  
19   authority to carry out, the internal administration of the  
20   Commission, including entering into contracts, appointing  
21   and supervising employees, and distributing business  
22   among members, employees, and administrative units.

23   **SEC. 103. DEPUTY DIRECTOR OF THE COMMISSION.**

24       (a) **APPOINTMENT.**—The Commission shall have a  
25   Deputy Director who shall be appointed by the Director

1 of the Commission from among individuals who are citi-  
2 zens of the United States, have recognized and extensive  
3 experience in mortgage regulation or mortgage markets,  
4 and have demonstrated expertise in the legal and regu-  
5 latory requirements and private sector standards gov-  
6 erning the United States primary and secondary mortgage  
7 markets.

8 (b) FUNCTIONS.—The Deputy Director shall have  
9 such functions, powers, and duties as the Director shall  
10 prescribe. In the event of the death, resignation, sickness,  
11 or absence of the Director, the Deputy Director shall serve  
12 as acting Director until the return of the Director or the  
13 appointment of a successor pursuant to section 102.

14 **SEC. 104. PERSONNEL, SERVICES, AND FACILITIES.**

15 (a) USE OF REGULATORY AGENCY PERSONNEL AND  
16 FACILITIES.—In carrying out its functions under this Act  
17 the Commission may, to the extent practicable, utilize the  
18 personnel, services, and facilities of the Office of the  
19 Comptroller of the Currency, the Federal Deposit Insur-  
20 ance Corporation, the Board of Governors of the Federal  
21 Reserve System, the Office of Thrift Supervision, and the  
22 National Credit Union Administration, with their consent,  
23 with or without reimbursement.

1 (b) COMPENSATION, AUTHORITY, AND DUTIES OF  
2 OFFICERS AND EMPLOYEES; EXPERTS AND CONSULT-  
3 ANTS.—In addition, the Commission may—

4 (1) subject to the provisions of title 5, United  
5 States Code, relating to the competitive service, clas-  
6 sification, and General Schedule pay rates, appoint  
7 and fix the compensation of such officers and em-  
8 ployees as are necessary to carry the provisions of  
9 this Act, and to prescribe the authority and duties  
10 of such officers and employees; and

11 (2) obtain the services of experts and consult-  
12 ants as are necessary to carry out the provisions of  
13 this Act.

14 **SEC. 105. FUNDING FOR COMMISSION OPERATIONS.**

15 (a) ANNUAL FEE.—The Commission is authorized to  
16 assess a \$25 annual fee from each mortgage loan origi-  
17 nator during the period such individual is licensed by a  
18 State as a condition to performing the functions of a mort-  
19 gage loan originator.

20 (b) ADJUSTING THE ANNUAL FEE.—The Commis-  
21 sion may adjust the fee assessed pursuant subsection (a)  
22 from time to time, as necessary to carry out its functions  
23 under this Act, up to a maximum of \$80 per annum.

24 (c) INFLATION ADJUSTMENTS.—Ten years after the  
25 effective date of this Act, and at the end of every 10-year

1 period thereafter, the annual fee the Commission is au-  
2 thorized to assess under subsection (a), and the maximum  
3 fee authorized under subsection (b), shall be adjusted by  
4 a percentage equal to the percentage by which the Con-  
5 sumer Price Index (or its successor) for the month of June  
6 preceding the effective date (of this Act for the first ad-  
7 justment, or of the most recent adjustment for subsequent  
8 adjustments) differs from the Consumer Price Index (or  
9 its successor) for the month of June in the year of the  
10 adjustment.

11 (d) NOTICE OF ADJUSTMENTS.—The Commission  
12 shall publish a brief notice describing each adjustment  
13 pursuant to subsection (b) or (c) in the Federal Register  
14 concurrently with the effectiveness of such adjustment.

15 (e) FEE COLLECTION BY STATES.—Each State that  
16 licenses individuals to performs the functions of mortgage  
17 loan originators shall collect the annual fee authorized  
18 under subsection (a) from each licensee, except licensees  
19 who provide satisfactory evidence that another State col-  
20 lects his or her annual Commission fee, and shall transmit  
21 such fees to the Commission on an annual basis together  
22 with a reasonable accounting thereof.

23 (f) FEE COLLECTION BY NATIONWIDE MORTGAGE  
24 LICENSING SYSTEM AND REGISTRY.—

1           (1) IN GENERAL.—If the Commission, following  
2           consultation with the Nationwide Mortgage Licens-  
3           ing System and Registry, determines that the facili-  
4           ties of the Nationwide Mortgage Licensing System  
5           and Registry offers a more convenient and efficient  
6           method for collecting the annual fees authorized pur-  
7           suant to subsection (a) than collection by one or  
8           more States pursuant to subsection (e), the Commis-  
9           sion may notify such States in writing that the Com-  
10          mission will collect fees for mortgage loan origina-  
11          tors licensed by that State through the Nationwide  
12          Mortgage Licensing System and Registry, and the  
13          Nationwide Mortgage Licensing System and Reg-  
14          istry shall collect such fees.

15          (2) TRANSMISSION.—Each State that receives a  
16          notice under paragraph (1) shall promptly transmit  
17          to the Commission any fees it has collected under  
18          subsection (e), and shall not otherwise be obligated  
19          to collect fees on the Commission’s behalf under sub-  
20          section (e) during the effective period of such notice.

21          (3) EXPENSES.—The Nationwide Mortgage Li-  
22          censing System and Registry shall—

23                 (A) develop reasonable methods to allocate  
24                 its existing and projected expenses to develop,  
25                 operate, maintain, and upgrade the Nationwide

Mortgage Licensing System and Registry between—

(i) registered mortgage loan originators that are employees of depository institutions or subsidiaries of depository institutions; and

(ii) other mortgage loan originators registered or licensed through the System; and

(B) in establishing the amount of fees to be collected to defray the costs to develop, operate, maintain, and upgrade the System, the Nationwide Mortgage Licensing System and Registry shall not charge such mortgage loan originators described in clause (i) or (ii) of subparagraph (A) fees that exceed amounts reasonably necessary to defray the expenses attributable to each such group.

(g) STARTUP FUNDING.—

(1) IN GENERAL.—The Secretary of the Treasury shall pay to the Commission a one-time payment of \$10,000,000 within 30 days after the effective date of this Act.

(2) REPAYMENT.—The Commission shall repay the Secretary of the Treasury for such \$10,000,000,



1 in full, no later than the 10th anniversary of this  
2 Act's effective date.

3 (h) COMMISSION EXPENDITURE AUTHORITY.—

4 (1) IN GENERAL.—The Commission shall have  
5 the power to enter into contracts, and determine its  
6 necessary expenditures under this Act and the man-  
7 ner in which such expenditures shall be incurred, al-  
8 lowed, and paid out of funds available to the Com-  
9 mission under this section.

10 (2) ACCOUNT.—Funds available to the Commis-  
11 sion under this section shall be deposited in an ac-  
12 count in the Treasury of the United States, but shall  
13 not be construed to be Government funds or appro-  
14 priated monies, or subject to apportionment for the  
15 purposes of chapter 15 of title 31, United States  
16 Code, or any other authority.

## 17 **TITLE II—EVALUATION OF** 18 **STATE MORTGAGE SUPER-** 19 **VISION AND ENFORCEMENT**

### 20 **SEC. 201. EVALUATION CRITERIA.**

21 (a) CRITERIA FOR EVALUATION OF STATE OVER-  
22 SIGHT.—The Commission shall develop criteria and a nu-  
23 merical rating system corresponding to descriptive cat-  
24 egories indicative of a State program's strength or weak-  
25 ness to evaluate the effectiveness of—

1           (1) systems for licensing, supervision, and en-  
2           forcement with respect to mortgage loan originators  
3           and mortgage companies operating in the State, in-  
4           cluding but not limited to—

5                   (A) implementation of licensing require-  
6                   ments that take into account conduct and dis-  
7                   ciplinary history; establishment of minimum  
8                   educational requirements, testing standards,  
9                   and continuing education; establishment of ap-  
10                  propriate license denial, suspension, or revoca-  
11                  tion procedures;

12                  (B) ongoing supervision and periodic ex-  
13                  amination of the activities of mortgage loan  
14                  originators and mortgage companies to review  
15                  their compliance with applicable law, and to ad-  
16                  dress any deficiencies therein; and

17                  (C) administrative and judicial enforce-  
18                  ment programs to take corrective action against  
19                  mortgage loan originators and mortgage compa-  
20                  nies and deter future violations of licensing re-  
21                  quirements and applicable law;

22           (2) mechanisms to collect, evaluate and respond  
23           to complaints against State-licensed mortgage loan  
24           originators and mortgage companies; and

1           (3) such other matters as the Commission de-  
2           termines appropriate in light of the purposes of this  
3           Act.

4           (b) PUBLICATION OF CRITERIA.—The criteria devel-  
5           oped by the Commission pursuant to subsection (a)—

6                 (1) may be formulated through such processes  
7                 as the Commission in its discretion determines are  
8                 appropriate in light of the purposes of this Act; and

9                 (2) shall be made available to the public in ac-  
10            cordance with section 203 of this Act.

11   **SEC. 202. PERIODIC ASSESSMENT OF STATE PROGRAMS.**

12           (a) EVALUATION AND REPORTING.—The Commis-  
13           sion shall conduct an evaluation of each State's programs  
14           for licensing, regulation, and enforcement with respect to  
15           mortgage loan originators and mortgage companies under  
16           the criteria developed pursuant to section 201, and pre-  
17           pare a report containing a narrative evaluation of the ade-  
18           quacy of the State's programs, including a summary nu-  
19           merical rating for each class of criteria and an overall  
20           composite rating.

21           (b) PUBLICATION OF REPORTS.—The reports pre-  
22           pared by the Commission pursuant to subsection (a) shall  
23           be made available to the public in accordance with section  
24           203 of this Act.

25           (c) EVALUATION FREQUENCY.—

1           (1) The Commission shall complete its first  
2           evaluation and report for every State no later than  
3           4 years after the effective date of this Act, and  
4           thereafter shall complete an evaluation and report  
5           for each State not less than once every 36 months.

6           (2) If a State makes significant changes to its  
7           programs after the Commission has issued its re-  
8           port, and the State submits a written certification to  
9           the Commission describing the reasons why the  
10          State believes changes made are material and likely  
11          to persuade the Commission to increase one or more  
12          of the State's summary numerical ratings, the Com-  
13          mission shall review the submission and determine  
14          whether to re-evaluate the State's program, in part  
15          or in full, in advance of the State's next scheduled  
16          evaluation.

17          (3) If the Commission does not commence a re-  
18          evaluation within 6 months of a State's submission  
19          under paragraph (2), the Commission shall issue a  
20          written statement briefly describing the basis for its  
21          decision.

22          (4) Requests for re-evaluation under paragraph  
23          (2) shall be determined by the Commission, without  
24          delegation to the Director of the Commission.

1 **SEC. 203. COMMISSION INFORMATION.**

2 (a) COMMISSION TO MAKE INFORMATION PUBLICLY  
3 AVAILABLE.—The Commission shall make its evaluation  
4 criteria developed pursuant to section 201(a) and its eval-  
5 uation reports prepared pursuant to section 202(a) pub-  
6 licly available by—

7 (1) posting such material on the Commission’s  
8 Internet website; and

9 (2) delivering copies free of charge upon each  
10 request to an email address and toll-free telephone  
11 number maintained by the Commission for such re-  
12 quests.

13 (b) COMMISSION’S ACCESS TO RECORDS.—The Com-  
14 mission shall assign the lowest possible summary numer-  
15 ical rating to any State program for which the responsible  
16 State agencies and officials do not cooperate in the Com-  
17 mission’s evaluation process under section 202(a) or allow  
18 complete access to information, records, and personnel the  
19 Commission deems relevant to its evaluation.

20 (c) CONFIDENTIALITY RETAINED.—Submission of  
21 information to the Commission pursuant to subsection (b)  
22 does not waive or alter its treatment as confidential, privi-  
23 leged, or protected information under State or Federal  
24 law, and information submitted or obtained—

1           (1) is not subject to Federal laws requiring the  
2       disclosure of information held by federal officers or  
3       agencies; and

4           (2) is not subject to discovery through pro-  
5       ceedings against, or subpoenas naming, the Commis-  
6       sion or its officers or employees.

7       (d) FREEDOM OF INFORMATION ACT.—The Commis-  
8       sion shall be deemed an “agency responsible for the regu-  
9       lation or supervision of financial institutions” for purposes  
10      of section 552(b)(8) of title 5, United States Code, and  
11      Commission records relating to the evaluation of a State  
12      pursuant to section 202 of this Act shall, with the excep-  
13      tion of the public report prepared by the Commission, be  
14      deemed related to “examination, operating, or condition  
15      reports” for purposes of such section.

## 16   **TITLE     III—SUPERVISION     OF** 17       **MORTGAGE COMPANIES AND** 18       **MORTGAGE ORIGINATORS**

### 19   **SEC. 301. CLARIFICATION OF TRUTH IN LENDING ACT EN-** 20       **FORCEMENT RESPONSIBILITIES.**

21       Section 108 of the Truth in Lending Act (15 U.S.C.  
22   1607) is amended—

23           (1) in subsection (b), by striking each reference  
24       to “subsection (a)” and inserting “subsection (a) or  
25       (f)”; and

1           (2) by adding at the end the following:

2           “(f) HOLDING COMPANY AFFILIATES.—Compliance  
3 with the requirements imposed under this subchapter shall  
4 be enforced under section 8 of the Federal Deposit Insur-  
5 ance Act (12 U.S.C. 1818) in the case of—

6           “(1) bank holding companies, and subsidiaries  
7 (other than depository institutions or subsidiaries of  
8 depository institutions) of bank holding companies,  
9 by the Board; and

10          “(2) savings and loan holding companies, and  
11 subsidiaries (other than depository institutions or  
12 subsidiaries of depository institutions) of savings  
13 and loan holding companies, by the Director of the  
14 Office of Thrift Supervision.

15          “(g) STATE ENFORCEMENT AUTHORITY.—(1) State  
16 agencies are authorized to enforce compliance with the re-  
17 quirements imposed under this subchapter with respect to  
18 extensions of credit secured by a consumer’s dwelling (in-  
19 cluding residential mortgage transactions) against mort-  
20 gage companies and mortgage loan originators regulated  
21 or licensed by each such State agency.

22          “(2) No State agency shall have the authority under  
23 paragraph (1) of this subsection to take any action against  
24 any person covered under subsection (a) of this section,

1 or any subsidiary of such person, or any mortgage loan  
 2 originators employed by the foregoing.

3 “(3) The authority granted to State agencies under  
 4 paragraph (1) of this subsection does not affect the au-  
 5 thority conferred under subsection (c) or subsection (f) of  
 6 this section.

7 “(4) For purposes of this subsection, the terms ‘mort-  
 8 gage company’ and ‘mortgage loan originator’ have the  
 9 meanings given the terms by section 3 of the Mortgage  
 10 Origination Commission Act of 2008.”.

11 **SEC. 302. BOARD OF GOVERNORS EXAMINATION AUTHOR-**  
 12 **ITY.**

13 Section 5 of the Bank Holding Company Act (12  
 14 U.S.C. 1844) is amended—

15 (1) in section 5(c)(2)(C)(ii), by striking “any  
 16 subsidiary” and inserting “except as provided in  
 17 subparagraph (F), any subsidiary,”; and

18 (2) in section 5(c)(2), by adding at the end the  
 19 following:

20 “(F) MORTGAGE COMPANY EXAMINA-  
 21 TIONS.—(i) The Board may make examinations  
 22 of each bank holding company, and each sub-  
 23 sidiary of such holding company, that is a mort-  
 24 gage company.



1           “(ii) The Board shall conduct such exami-  
2           nations not less than once every 18 months.

3           “(iii) For purposes of this subparagraph,  
4           the term ‘mortgage company’ has the meaning  
5           given the term by section 3 of the Mortgage  
6           Origination Commission Act of 2008.”.

7   **SEC. 303. OFFICE OF THRIFT SUPERVISION EXAMINATION**  
8           **AUTHORITY.**

9           Section 10 of the Home Owners Loan Act (12 U.S.C.  
10   1467a) is amended by adding at the end the following:

11          “(u) MORTGAGE COMPANY EXAMINATIONS.—

12           “(1) The Director may examine each savings  
13           and loan holding company, and each subsidiary of  
14           such savings and loan holding company, that is a  
15           mortgage company.

16           “(2) The Director shall conduct such examina-  
17           tions not less than once every 18 months.

18           “(3) For purposes of this subsection, the term  
19           ‘mortgage company’ has the meaning given the term  
20           by section 3 of the Mortgage Origination Commis-  
21           sion Act of 2008.”.

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